



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for July 21, 2023

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NONPRECEDENTIAL COURT DECISIONS

***Neese v. Merit Systems Protection Board*, No. [2023-1144](#) (Fed. Cir. July 19, 2023) (NY-0845-15-0316-I-1):**

The court affirmed the Board's decision dismissing Mr. Neese's petition for review as untimely. The court found that the Board did not abuse its discretion in determining that Mr. Neese failed to show good cause for his delay because he failed to explain how his doctor's visits and medical conditions prevented him from timely filing his petition for review. The court also found that Mr. Neese's lack of intent to file late, his pro se status, and the Board's delay in issuing a decision while it lacked a quorum do not demonstrate good cause for his delay.

***Neese v. Merit Systems Protection Board*, No. [2023-1408](#) (Fed. Cir. July 20, 2023) (DC-0752-23-0014-I-1):**

The court affirmed the Board's decision dismissing Ms. Neese's petition for review as untimely and barred by collateral estoppel. The court found that the Board did not err in its application of collateral estoppel because the issue of timeliness had been decided in the appellant's first appeal of her removal, *Neese I*, and

was a necessary threshold issue in this appeal of her alleged involuntary resignation, *Neese II*. Because both appeals arise out of the same events, involve the same agency action removing Ms. Neese from her position, and consider the same antecedent question of timeliness, which was necessary to the Board's dismissal in *Neese I*, collateral estoppel applies.

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